

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

IFETAYO R. AZIBO-BOYNTON, et al.,

No. 3:10-cv-4151 RS (NJV)

Plaintiffs,

ORDER DENYING PLAINTIFFS'
REQUEST TO CONTINUE HEARING AND
DEADLINES (Docket No. 37) AND
VACATING HEARING

CITY OF PINOLE, et al.,

Defendants.

This case was referred to the undersigned on August 24, 2011, for resolution of Defendants' motion to compel (Docket No. 31) and any further discovery disputes. (Docket No. 32.) On September 13, 2011, a Clerk's Notice was entered in this case, setting the motion to compel for hearing on October 11, 2011, and stating that any opposition to the motion was due no later than September 27, 2011. (Docket No. 36.) September 27, 2011, passed and no opposition to the motion to compel was filed.

On October 4, 2011, Plaintiffs filed a request to continue the October 11, 2011 hearing date and "related deadlines." (Docket No. 37.) Defendants filed objections the same day. (Docket No. 38.) In the request for a continuance, Plaintiffs' counsel states that she was initially scheduled to be in trial on October 11, 2011, and therefore requested opposing counsel to stipulate to a continuance. Plaintiffs' counsel states that during her conversations with opposing counsel beginning on September 27, 2011, she was under the impression that the due date for filing her opposition would move along with the new hearing date. She further states that on September 29, 2011, she became aware that opposing counsel would agree to continue the hearing date, but not the date that the

1 opposition to the motion was due. Plaintiffs now request a continuance of the hearing on the motion
2 to compel, and also request that the dates for the response to the motion and the reply "be continued
3 in accordance with the new hearing date."

4 Plaintiffs' counsel is informed that under the Civil Local Rules of this Court revised
5 September 8, 2011, the filing dates for the response to a motion and the reply are not determined by
6 reference to the hearing date on the motion. Rather, pursuant to Civil Local Rule 7-3(a), "[a]ny
7 opposition to a motion must be served and filed not more than 14 days after the motion is served and
8 filed." Pursuant to Civil Local Rule 7-3(c), "[a]ny reply to an opposition must be served and filed by
9 the moving party not more than 7 days after the opposition is served and filed." Further, Civil Local
10 Rule 7-7 (d) provides that, "[u]nless otherwise ordered by the Court, the continuance of the hearing
11 of a motion does not extend the time for filing and serving the opposing papers or reply papers."
12 Accordingly, the Court finds that there was no basis for Plaintiffs' counsel's assumption that
13 discussions regarding continuing a hearing, begun on the day the opposition to the motion was due,
14 would result in an extension of time to file the opposition. The Court thus concludes that there is no
15 basis on which to grant Plaintiffs an extension of time to file their opposition. Plaintiffs' request for
16 an extension of time to file their opposition is HEREBY DENIED.

17 The Court finds that the motion to compel is suitable for resolution without oral argument.
18 Accordingly, the Court hereby takes the matter under submission on the papers pursuant to Local
19 Rule 7-1(b). The hearing on the motion to compel set for October 11, 2011, is HEREBY
20 VACATED. Accordingly, Plaintiffs' request for a continuance of that hearing date is HEREBY
21 DENIED as moot.

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24 Dated: October 5, 2011



Nandor J. Vadas
United States Magistrate Judge